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C O N F I D E N T I A L SECTION 01 OF 02 ZAGREB 000602

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TAGS: [PREL](#) [PGOV](#) [KAWC](#) [HR](#)
SUBJECT: CROATIA PLANS NEW INVESTIGATION INTO MISSING
GOTOVINA DOCUMENTS

REF: ZAGREB

Classified By: Political Officer Chris Zimmer for Reasons 1.4 (b) and (d).

11. (C) SUMMARY: Justice Minister Ivan Simonovic told Ambassador Foley on October 2 that Croatia is forming a police-led interagency task force to conduct additional investigations into missing documents related to the International Criminal Tribunal for the Former Yugoslavia (ICTY) trial of Croatian General Ante Gotovina. This is in response to ICTY Chief Prosecutor Serge Brammertz's assertions during a visit to Croatia earlier in the week that Croatia's investigations to date were insufficient. It is also an effort to convince EU member states that Croatia is doing all it can to cooperate with ICTY. Other topics covered in the meeting will be reported septel. END SUMMARY.

12. (C) The Ambassador and Justice Minister Ivan Simonovic met on October 2 to discuss Croatia's cooperation with ICTY -- specifically with ICTY Prosecutor Brammertz -- and that issue's ramifications for Croatia's EU accession process, where four EU states have blocked opening of the "Judiciary" Chapter (Chapter 23). This meeting was a follow-up to Brammertz's September 28 visit to Croatia, during which Brammertz met with Croatia's Council for ICTY Cooperation, chaired by PM Jadranka Kosor, and continued to brand GoC's cooperation as insufficient. Simonovic noted that Brammertz's meeting with Kosor was "not very good". During its subsequent internal meeting, Simonovic said, the GoC decided to launch another investigation in an effort to address Brammertz's criticisms and demonstrate once and for all that the GoC had done everything it could to locate or determine the fate of the missing documents.

Interagency Investigation

13. (C) Simonovic provided the Ambassador a copy of a letter sent by Kosor to Brammertz on October 1, 2009, informing him about the new investigation. This will be an interagency effort, led by the Police and including officials from the Ministries of Justice, Defense, Interior, and the intelligence services. In response to the Ambassador's point that previous investigations did not seem to pursue complete lines of questioning with witnesses, Simonovic said that he believes follow-through on questioning should improve with professionally-trained police running the investigation. Simonovic noted that in previous administrative investigations led by the military, it was possible that people were not open due to old friendships with Gotovina or others involved in his case.

Brammertz's Experts to Meet with Investigators

¶4. (C/NF) Simonovic said he personally spoke to Brammertz on October 1, and requested that Brammertz send his military experts to meet with the Croatian investigators once the team is fully established in approximately ten days. This would be to ensure that the investigation was geared to meeting Brammertz's requirements. According to Simonovic, Brammertz agreed to this request reluctantly -- only because "he could not say no." The Ambassador reminded Simonovic that Croatia can avail itself of third party assistance with the investigation. While such a step might not make a difference with Brammertz, it could help Croatia convince others that it was doing everything to ensure that the investigation is credible.

Sustaining Cooperation with ICTY is Essential

¶5. (C/NF) The Ambassador welcomed the new investigation and said that EU members with whom he had spoken would also be pleased. Noting Simonovic's stated fear that Brammertz may never be satisfied with any result other than the delivery of the missing documents, the Ambassador observed that a credible investigation with a clear, comprehensive report could help sway those EU members still concerned about Croatia's cooperation, regardless of Brammertz's conclusions.

¶6. (C/NF) Simonovic stressed that Croatia believes its earlier investigations were sufficient to satisfy the Trial Chamber's order to submit the documents or to report on their

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status. One downside of the new investigation was the risk that it would legitimize Brammertz's claims to the contrary. Croatia had decided to take this new step to reassure Brammertz and EU members that Croatia was willing to "go the extra mile" to address Brammertz's criticisms of the earlier investigations. Simonovic shared with the Ambassador a copy of the letters the GoC has exchanged with Brammertz over the last several months addressing these criticisms. (Post will send copies to S/WCI and EUR/SCE.)

¶7. (C/NF) One reason Simonovic was not optimistic that Brammertz could be satisfied even by a more professional investigation was due to his stated indifference to GoC prosecution of six individuals accused of having removed or destroyed wanted documents. The GoC prosecutions were, according to Simonovic, directly responsive to ICTY orders to establish the chain of custody, and could actually be used by Brammertz to strengthen his case against Gotovina.

¶8. (C/NF) Continuing, Simonovic restated the GoC's belief that the missing documents were "in the possession of Gotovina and his circle" and were "not likely on the territory of Croatia." Moreover, it was difficult to imagine that those who had purloined the documents would confess what they had done and thereby risk disbarment and prosecution. Simonovic also shared speculation about what he called "paradoxes" concerning the documents. Some experts, he said, believed that the original documents may not have been incriminating but had been doctored by Gotovina in the aftermath of the war so as to inflate his role in the eyes of history and for the purposes of his memoirs.

¶9. (C/NF) COMMENT: Croatia's decision to undertake further investigations to try and find missing documents, or learn more about how they disappeared, is a welcome step. Brammertz may indeed portray the decision as a tacit admission that Croatia has not been fully cooperating with ICTY on the documents issue to date. The important question is whether -- as Brammertz claimed to local ambassadors last week -- he would prove willing to acknowledge a credible GoC investigation in lieu of the documents themselves. The focus is now on the GoC to meet this test -- at least in the eyes

of key EU states (UK, Netherlands, Belgium, and Finland) who will determine whether Croatia is cooperating sufficiently with ICTY to permit negotiations on Chapter 23 to begin, if not of Brammertz himself. END COMMENT.
FOLEY